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EXAMINER

STACE, BRENT S

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DAVID J. LILLIE, JAYME C. EDWARDS, and BRIAN
GILBERT RIVIERE

Appeal 2008-004467
Application 10/667,750¹
Technology Center 2100

Decided: August 26, 2009

Before LANCE LEONARD BARRY, JEAN R. HOMERE, and JAY P.
LUCAS, *Administrative Patent Judges*.

LUCAS, *Administrative Patent Judge*.

DECISION ON APPEAL

¹ Application filed September 22, 2003. The real party in interest is
Rockwell Automation Technologies, Inc.

STATEMENT OF THE CASE

Appellants appeal from a final rejection of claims 1 through 39 under authority of 35 U.S.C. § 134(a). The Board of Patent Appeals and Interferences (BPAI) has jurisdiction under 35 U.S.C. § 6(b).

Appellants' invention relates to a method and system for storing and retrieving shared access profiles among users with similar roles in an organization. In the words of Appellants:

The present invention relates to systems and methods that provide a sharable portal configuration, wherein users can employ the configuration to gain selective access to components in an industrial environment. Generally, the user employs the portal with a plurality of portlets, wherein respective portlets provide windows of selective access to one or more components within the scope of the user. For example, an electrician utilizing a portal of the present invention can customize the portal via adding portlets and associating components with the portlets. Typically, the electrician selects components from a group (subset) of components related to the electrician's functional role. Sharable configurations can be stored local to the user's portal, local to another portal and/or within a networked storage medium. Typically, users with similar roles can instantiate instances of a portal configuration associated with the role. The configuration commonly invokes instantiation of a portal with a plurality of portlets, wherein respective portlets provide windows of selective access to one or more components within the scope of the user. The user can additionally configure the portal such that the components accessed *via* portlets are based on the user's location. Thus, the present invention utilizes a "who, what, where" approach to determine the components a user can access and the components the user accesses at any given instance in time.

(Spec. 7-8).

Claim 1 is exemplary:

1. A system that employs a shared access profile to interact with at least one networked device, comprising:

a storage component that is utilized to save one or more shared access profiles customized to delineate at least one of access and administrative privileges to the at least one networked device;

a retrieval component that obtains the shared access profile from the storage component, and

a user interface that employs the shared access profile to provide users having similar roles with selective access to the at least one networked device.

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Nielsen	US 5,813,007	Sep. 22, 1998 (filed on Jun. 20, 1996)
Sheppard	US 6,026, 397	Feb. 15, 2000 (filed on May 22, 1996)
Gilmour	US 6,115,709	Sep. 05, 2000 (filed on Sep. 18, 1998)
Hayes	US 2001/0011341 A1	Aug. 02, 2001 (filed on May 05, 1998)
Schaeck	US 2003/0163513 A1	Aug. 28, 2003 (filed on Feb. 22, 2002)

REJECTIONS

The Examiner rejects the claims as follows:

R1: Claims 1-4, 8-14, 16, 17, 20-22, 24, 26-28, and 30-38 stand rejected under 35 U.S.C. § 102(e) for being anticipated by Schaeck.

R2: Claims 5, 7, 19, 23, 29, and 39 stand rejected under 35 U.S.C. 103(a) for being obvious over Schaeck in view of Hayes.

R3: Claims 6 stands rejected under 35 U.S.C. 103(a) for being obvious over Schaeck in view of Hayes and further in view of Nielsen.

R4: Claim 15 stands rejected under 35 U.S.C. 103(a) for being obvious over Schaeck in view of Hayes and further in view of Gilmour.

R5: Claims 18 and 25 stand rejected under 35 U.S.C. 103(a) for being obvious over Schaeck in view of Hayes and further in view of Sheppard.

Groups of Claims:

As the claims rejected under 35 U.S.C. § 103 [R2 to R5] rely on the arguments presented for the rejection under 35 U.S.C. § 102 [R1], the claims will stand or fall together. (*See* Br. 9-10.)

See 37 C.F.R. § 41.37 (c) (vii). *See also In re McDaniel*, 293 F.3d 1379, 1383 (Fed. Cir. 2002) (“If the brief fails to meet either requirement [of 37 CFR § 1.192(c)(7)], the Board is free to select a single claim from each group of claims subject to a common ground of rejection as representative of all claims in that group and to decide the appeal of that rejection based solely on the selected representative claim.”).

Appellants contend that the claimed subject matter is not anticipated by Schaeck or rendered obvious by Schaeck in combination with the secondary references for failure of the references to teach a claimed limitation. The Examiner contends that each of the claims is properly rejected.

Rather than repeat the arguments of Appellants or the Examiner, we refer to the Brief and the Answer for their respective details. Only those arguments actually made by Appellants have been considered in this

opinion. Arguments that Appellants could have made but chose not to make in the Brief have not been considered and are deemed to be waived.

We affirm the rejections.

ISSUE

The issue is whether Appellants have shown that the Examiner erred in rejecting the claims under 35 U.S.C. § 102(e) and 35 U.S.C. § 103(a). The issue turns on whether Schaeck teaches the shared access profile as claimed.

FINDINGS OF FACT

The record supports the following findings of fact (FF) by a preponderance of the evidence.

1. In an industrial control setting, Appellants have invented a system and method for retrieving and customizing a standard user profile to adapt to the users' individual requirements. (Spec. 4, middle). The profiles are instantiated as portals with the components appropriate for a user category (*e.g.*, electrician), and provided with facilities to make a portlet customized to access and control those elements useful for the job function. (Spec. 7, bottom).
2. Schaeck relates to providing role-based views from business web portals that aggregate business processes and services in a distributed computing environment. (¶ [0003]). More specifically, Schaeck teaches role specific portlets customized with applications and services specific to the role of the user. (¶ [0035]). Users may have a number of roles (*e.g.*

supervisor, or employee) and assume a specific role portlet depending on the job being done at the moment. (§ [0066]).

PRINCIPLES OF LAW

Appellants have the burden on appeal to the Board to demonstrate error in the Examiner's position. *See In re Kahn*, 441 F.3d 977, 985-86 (Fed. Cir. 2006) ("On appeal to the Board, an applicant can overcome a rejection [under § 103] by showing insufficient evidence of prima facie obviousness or by rebutting the prima facie case with evidence of secondary indicia of nonobviousness.") (quoting *In re Rouffet*, 149 F.3d 1350, 1355 (Fed. Cir. 1998)).

"In reviewing the [E]xaminer's decision on appeal, the Board must necessarily weigh all of the evidence and argument." *In re Oetiker*, 977 F.2d 1443, 1445 (Fed. Cir. 1992).

In rejecting claims under 35 U.S.C. § 102, "[a] single prior art reference that discloses, either expressly or inherently, each limitation of a claim invalidates that claim by anticipation." *Perricone v. Medicis Pharm. Corp.*, 432 F.3d 1368, 1375-76 (Fed. Cir. 2005) (citation omitted).

It is axiomatic that anticipation of a claim under § 102 can be found only if the prior art reference discloses every element of the claim. *See In re King*, 801 F.2d 1324, 1326 (Fed. Cir. 1986) and *Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick Co.*, 730 F.2d 1452, (Fed. Cir. 1984).

ANALYSIS

From our review of the administrative record, we find that the Examiner has presented a prima facie case for the rejection of Appellants' claims under 35 U.S.C. § 102(e) and 35 U.S.C. § 103(a). The prima facie case is presented on pages 3-23 of the Examiner's Answer. In opposition, Appellants present a number of arguments.

*Arguments with respect to the rejection
of claims 1 to 4, 8 to 14, 16, 17, 20 to 22, 24, 26 to 28, and 30 to 38
under 35 U.S.C. § 102(e) [R1]*

Appellants contend that the Examiner erred in rejecting the indicated claims. They aver that they claim “a single shared access profile is used by multiple users, where the users' roles can be, e.g. an electrician or technician or others that require similar network access and privileges.” (Br. 6, top). They further contend “that Schaeck . . . employs multiple roles for a single user, which is in contradistinction to the claimed invention.” (Br. 6, middle).

Reading the claim carefully, we fail to agree with this distinction over the reference. First, the representative claim 1 clearly refers to “a storage component that is utilized to save one or more shared access profiles.” Clearly, a plurality of profiles is envisioned in the claim.

Second, Appellants' logic does not comport with the teachings of the Schaeck reference. Specifically, the fact that a single user in Schaeck can assume multiple roles (*e.g.*, a person can be a subordinate to his boss, and also a supervisor to his subordinates) does not render the reference irrelevant, as proposed by Appellants. (Br. 8, middle). The issue is whether Schaeck teaches explicitly or inherently a profile that is stored, retrieved, and employed as claimed.

In ¶¶ [0020], [0021], and [0022] of the Schaeck reference, we find the teachings of role-specific profiles linked to portlets that are stored and retrieved for a user. In ¶ [0067], as the Examiner has pointed out, we find a teaching of a user retrieving one of a plurality of roles, depending on the situation. (Ans. 24-25). Since it is clear and inherent in the teachings that multiple people in the organization may adopt the role of supervisor, for example, we find the elements of the claim, including the shared access profile taught by Schaeck. (*See, e.g.*, ¶ [0066].)

We thus fail to find error in the Examiner's rejection.

*Arguments with respect to the rejections
under 35 U.S.C. § 103(a) [R2, R3, R4, R5]*

Appellants base their arguments concerning rejections R2 to R5 on the same principles discussed above. (Br. 9-10). We thus do not find error in the rejections under 35 U.S.C. § 103.

CONCLUSION OF LAW

Based on the findings of facts and analysis above, we conclude that the Examiner did not err in rejecting claims 1-39.

DECISION

R1: The rejection of claims 1-4, 8-14, 16, 17, 20-22, 24, 26-28, and 30-38 under 35 U.S.C. § 102(e) for being anticipated by Schaeck is affirmed.

R2: The rejection of claims 5, 7, 19, 23, 29, and 39 under 35 U.S.C. § 103(a) for being obvious over Schaeck in view of Hayes is affirmed.

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R3: The rejection of claim 6 under 35 U.S.C. § 103(a) for being obvious over Schaeck in view of Hayes and further in view of Nielsen is affirmed.

R4: The rejection of claim 15 under 35 U.S.C. § 103(a) for being obvious over Schaeck in view of Hayes and further in view of Gilmour is affirmed.

R5: The rejection of claims 18 and 25 under 35 U.S.C. § 103(a) for being obvious over Schaeck in view of Hayes and further in view of Sheppard is affirmed.

AFFIRMED

peb

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